



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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May 7, 2012

TECHNICAL STAFF REPORT

Petition Accepted on March 2, 2012

Planning Board Meeting of May 24, 2012 (Advisory Authority Rules)

Zoning Board Hearing to be scheduled

Case No./Petitioner: ZB 1099M – Chapel Townhomes, LLC

Location: First Election District
North side of Richards Valley Road approximately 350 feet east of MD 108
Tax Map 37, Grid 1, Parcel 4, Par. B; 5733 Richards Valley Road (the "Property")

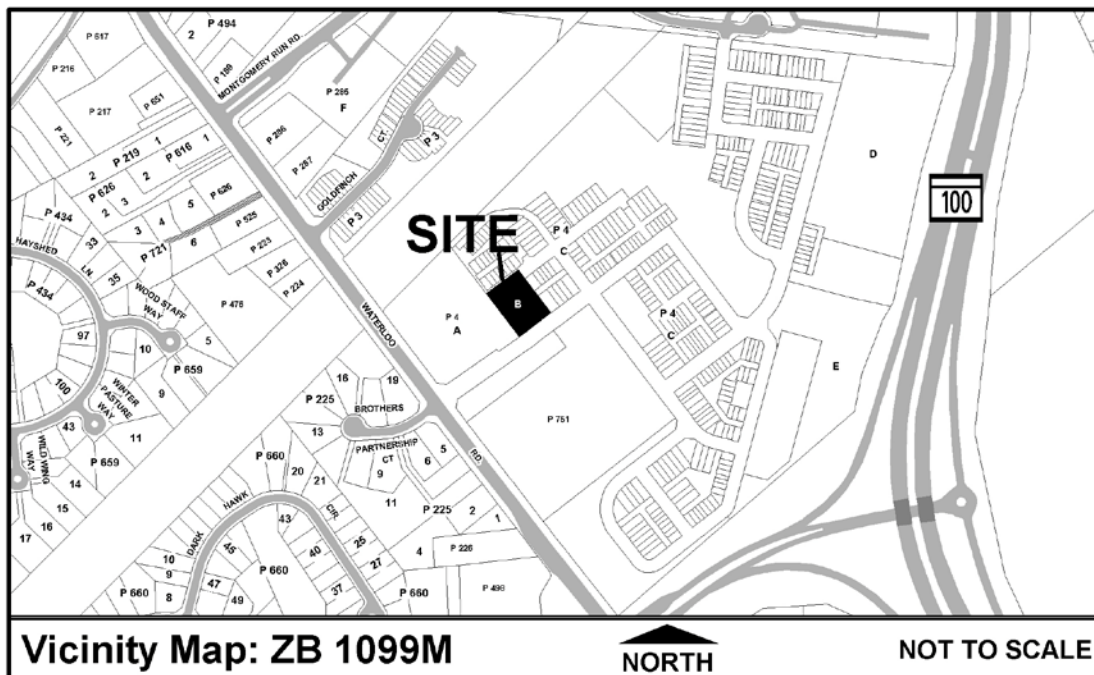
Area of Site: 32,549 square feet

Current Zoning of Site: B-1 (Business: Local)

Proposed Zoning of Site: R-A-15 (Residential: Apartments)

Department of Planning and Zoning Recommendation:

APPROVAL

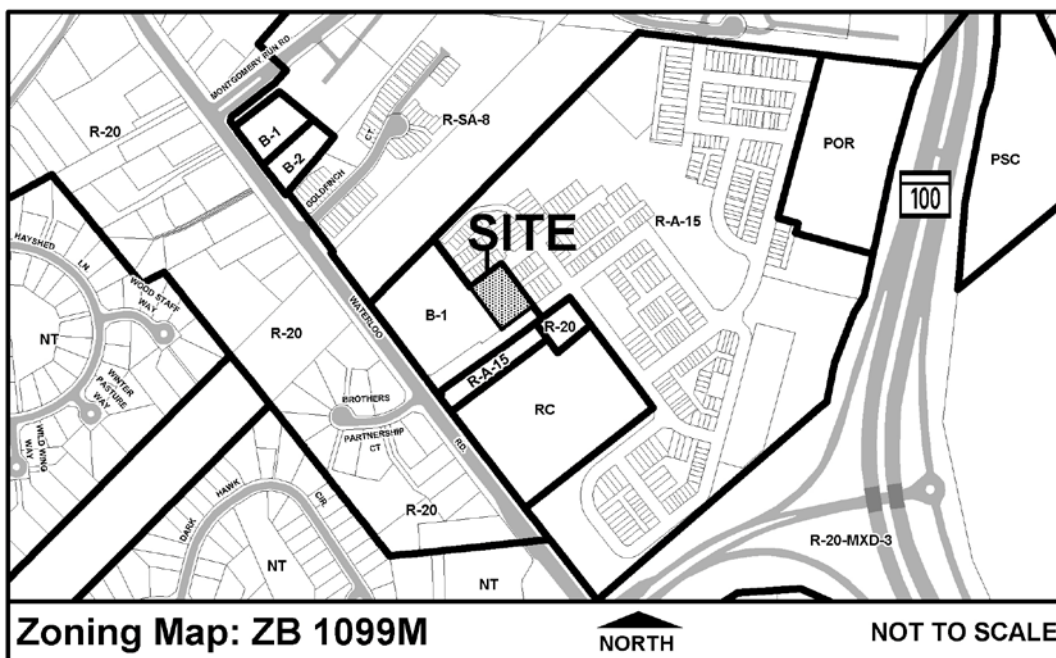


I. DESCRIPTION OF PROPOSAL

- **The Petitioner requests a Zoning Map Amendment to rezone the Property from the current B-1 (Business: Local) District to the R-A-15 (Residential: Apartments) District. This request is made using the Section 100.G.2 regulations for Site Plan Zoning Petitions.**
- **The Petitioner does not make an allegation of substantial change in the character of the neighborhood (“Change”) to justify the request. Justification to support the request is made with an allegation of mistake in zoning (“Mistake”), for which the Petitioner offers several reasons to substantiate the assertion.**
- **First, the Petitioner contends that facts have arisen subsequent to the 2004 Comprehensive Zoning Plan (the “CZP”) which constitute a Mistake. Prior to the April 14, 2004 effective date of the CZP the Property became subject to certain covenant provisions of the Shipley’s Grant Declaration of Covenants (the “Declaration”) which designated the Property as a “Future Chapel Site”.**

The petition further states “During the 2004 Comprehensive Zoning, the Property was kept in the B-1 District with the assumption that the Property would be developed as a religious facility pursuant to the plans for the Shipley’s Grant community expressed in the Declaration. Thus the Property was never considered for rezoning. The assumption that the Property would be developed in accordance with the terms of the Declaration has proven untrue with the passage of time.”

Prior to the CZP the Property was part of a parcel which existed as the approximately 75 acre Curtis Farm which was zoned R-20/MXD-3. With CZP Amendment No. 37.04 the Property which is the subject of the current Zoning Board case was rezoned to B-1 at the (then) Petitioner’s request based on the assumption that the Property would be developed with a religious facility.

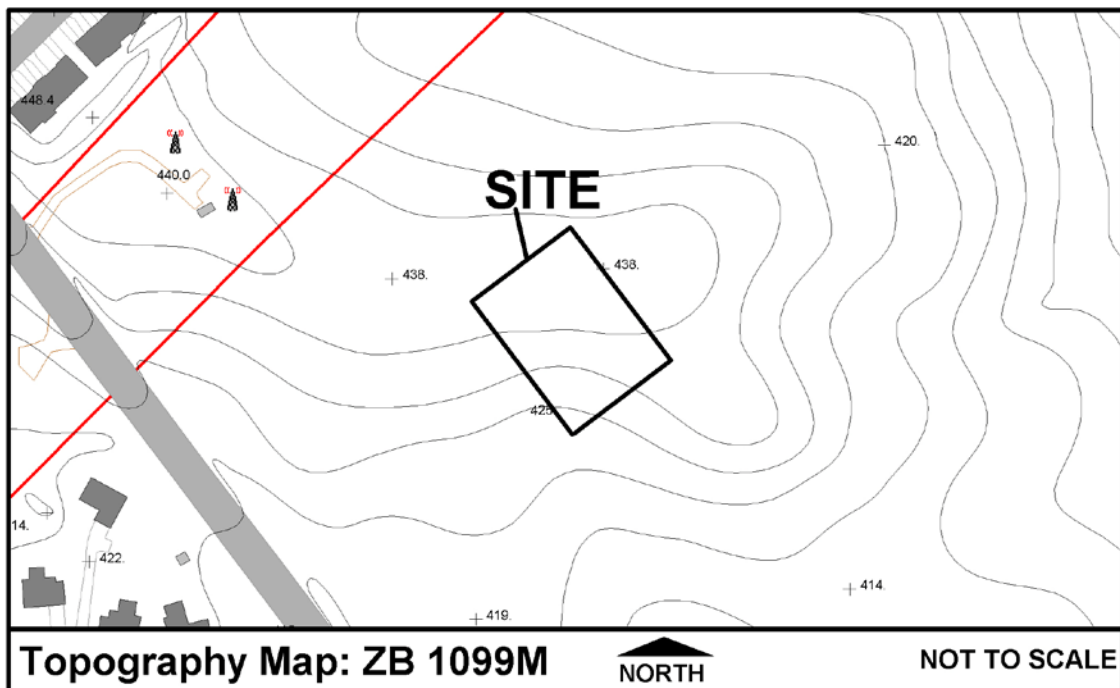


Notwithstanding the fact that the Property was rezoned in the CZP, the assumption that the Property would be developed with a religious facility was based on the Curtis family's desire to provide a relatively small chapel for a particular congregation. Since the time of the Property's rezoning in the CZP, construction of the Shipley's Grant community has progressed significantly and it has become evident that the site is too small to support the desired religious facility and the necessary parking; therefore, the assumption that the Property would be developed in accordance with the terms of the Declaration has proven untrue with the passage of time.

- **The Petitioner also explains that the construction market for religious facilities was strong at the time of the CZP but given current economic trends and difficulty in obtaining necessary donations and loans, the market has declined and a fundamental Mistake becomes evident.**

The Petitioner maintains that the current state of the economy makes it financially impossible to construct a religious facility on the Property as was anticipated at the time of the CZP.

- **The third rationale given by the Petitioner is that it was a Mistake to zone the Property for use as a religious facility as its relatively small size cannot properly support a facility with required parking which is large enough to serve the community. The Petitioner gives examples of vicinal religious facilities which are on larger lots and notes that the Property is barely more than half the size of the smallest vicinal property developed with a religious facility.**



- **The Petitioner further explains that other commercial uses permitted in the B-1 District are no more viable for the Property than a religious facility. The Property does not have direct access to a major road and the Property is almost entirely surrounded by residentially zoned and developed properties.**

In addition, the Shipley's Grant community already has a developed commercial component which is accessible only via Richards Valley Road which directs traffic onto the only road which provides access to the residential community. Commercial development of the Property would increase existing commercial traffic. The commercial development of the Property for other uses is not a logical alternative because any newly constructed buildings would be situated behind the existing commercial buildings and would not be visible from a major road and would therefore be unlikely to successfully attract business. In addition the parking area for any new buildings would not be accessible through the existing parking lot and would require a separate turning movement onto Richards Valley Road, the main access road.

- **The Site Analysis shown on the DSP indicates that based on 12 dwelling units and guest and overflow parking, 28 parking spaces are required and 32 spaces have been provided.**

There are 13 dwelling units depicted on the DSP; therefore, based on two required parking spaces per dwelling unit plus three spaces per unit for guest and overflow parking, it appears 30 parking spaces would be required.

II. ZONING HISTORY

- **The Property was rezoned from R-20/MXD-3 to B-1 with Amendment No. 37.04 in the 2004 Comprehensive Zoning Plan effective April 13, 2004. Under Amendment No. 37.04, the approximately 75 acre Curtis Farm which included the Property was rezoned. The portions of the Curtis Farm which were rezoned in the CZP are so annotated below in Section III.B.**
- **The 1993 Zoning Regulations and Map designated the Property as R-20/MXD-3.**
- **The 1985 Zoning Regulations and Map designated the Property as R-20.**

III. BACKGROUND INFORMATION

A. Site Description

- **The Property is an unimproved, relatively level, rectangular-shaped lot which fronts Richards Valley Road and is surrounded on two sides by single family attached dwellings.**

B. Vicinal Properties

- **Adjoining the northwest and northeast sides of the Property are lots of Phase I of the Shipley's Grant subdivision. These lots are zoned R-A-15 and improved with single family attached dwellings (rezoned under Amendment No. 37.04).**
- **Adjoining the southwest side of the Property is the B-1 zoned Shipley's Grant Parcel A (rezoned under Amendment No. 37.04). This is the site of a shopping center and parking lot which is accessed via Richards Valley Road. Adjoining the northwest**

boundary of these parcels is a BG&E utility right-of-way.

- Across Richards Valley Road to the southeast is the R-A-15 zoned Open Space Lot C-65 which contains a storm water management facility and the RC zoned Parcel 751. Parcel 751 is the site of the structures of the original Curtis Farm listed in the Howard County Historic Sites Inventory as HO-439, the Curtis-Shipley House. The R-20 zoned parcel in the northwest corner of these parcels is the site of a cemetery. These parcels were rezoned under Amendment No. 37.04.
- Across MD 108 from the Shipley's Grant subdivision are R-20 zoned lots which are generally improved with single family detached dwellings.

C. Roads

- MD 108 has two eastbound and two westbound travel lanes with acceleration and deceleration lanes within a 100 foot right-of-way. The posted speed limit is 45 miles per hour.
- Richards Valley Road has one travel lane in each direction within a 60 foot right-of-way. A traffic signal will be activated at the intersection of these two roads in the future.
- Visibility from the proposed driveways appears to be acceptable with estimated sight distance of more than 350 feet to the northeast and southwest. Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.
- According to data from the Department of Public Works, the traffic volume on MD 108 west of Snowden River Parkway was 20,001 AADT (average annual daily trips) as of 2010.

D. Water and Sewer Service

- The subject Property is within the Metropolitan District and is within the Existing Service Area according to the Howard County Geographic Information System maps.

E. General Plan

- The Property is designated Residential Areas on the Policies Map 2000-2020 of the 2000 General Plan.
- MD 108 is depicted as a Minor Arterial on the Transportation Map 2000-2020 of the 2000 General Plan. Richards Valley Road is depicted as a Major Collector on this same map.

F. Agency Comments

See attached comments on the proposal from the following agency:

1. Division of Land Development

G. Subdivision Review Committee

- As required by Section 100.G.2.c. of the Zoning Regulations, the site plan documentation included with this petition was evaluated by the Subdivision Review Committee. Subsequent to this evaluation, on March 14, 2012, the Department of Planning and Zoning certified that the development shown on the proposed site plan has the potential to comply with all technical requirements of the reviewing agencies, without substantial changes to the plan, in subsequent subdivision and site development plan stages of review.

H. Adequate Public Facilities Ordinance

- The petition is subject to the Adequate Public Facilities Ordinance. A site development plan for the proposed development is subject to the requirement to pass the test for adequate road facilities.

IV. EVALUATIONS AND CONCLUSIONS

A. Evaluation of the Petition Concerning the Mistake Rule

- The Department of Planning and Zoning concurs with the Petitioner that the assumption that the Property was going to be developed for a religious facility, as assumed in the CZP rezoning has proven to be incorrect over time.
- In addition, the assumption that the B-1 District is the appropriate zoning for the Property has also proven to be incorrect.

As pointed out by the Petitioner, the orientation of the Property disconnects it from the commercially developed area, and by having its frontage on and only access to Richards Valley Road which serves the residential community, the Property is undesirable for permitted B-1 uses. It seems unlikely that if the Property had not been specifically proposed to be developed as a religious facility, it would have been rezoned to B-1 in the CZP. The size of the Property and the limited developable area especially with regard to meeting parking requirements, make many B-1 uses extremely unlikely.

B. Evaluation of the Petition Concerning the Change Rule

- The Petitioner does not make an allegation of Change to support the requested Zoning Map Amendment.

C. Relation to the General Plan

- As shown above, the Property is ill-suited for B-1 development. For these reasons, the petition is in harmony with Balanced and Phased Growth Policy 4.4 to “Make efficient use of land resources for long-term economic growth.” For this particular Property, assimilating the land resource into the surrounding R-A-15 District is the best and most efficient use of the land.

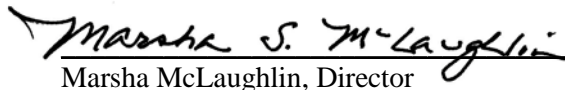
D. Evaluation of Site Plan Documentation Factors in Section 100.G.2.d.

1. The townhouse development proposed with the DSP will be bounded on two sides by existing townhouses of the Shipley's Grant community. Due to the physical separation of the site from the existing commercially developed component and the orientation of the existing commercial buildings, the site would have no spatial relationship to the commercial component and is better suited to residential development rather than commercial development. The proposed development depicted on the DSP will be compatible with the existing and potential land uses of the surrounding areas.
2. The proposed development would comply with comments of the Division of Land Development regarding environmental features and will protect the environmental integrity of the Property.
3. If the Property were to be commercially developed, access would have been via Richards Valley Road; however, the DSP proposes to instead utilize existing interior roads within the community for safe road access.
4. As noted above, the DSP would be compatible with the Howard County General Plan Residential Areas designation.

V. RECOMMENDATION

APPROVAL

For the reasons noted above, the Department of Planning and Zoning recommends that the requested Zoning Map Amendment with site plan documentation to rezone the Property from B-1 to R-A-15 be **APPROVED**.

 5/8/12
Marsha McLaughlin, Director Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MM/ZLK/zlk

DEPARTMENT OF PLANNING AND ZONING
Division of Land Development

March 8, 2012

COMMENTS

RE: **ZB-1099M Shipley's Grant, Parcel B**

General Comments

1. **Environmental Protection Regulations** - No grading, removal of vegetative cover and trees, paving and new structures is permitted within wetlands, streams, or their required buffers in accordance with Section 16.116 of the Subdivision and Land Development Regulations.
2. **M.I.H.U.'s** - At least one additional MIHU unit must be provided with this proposal.
3. **Access Alleys** - In accordance with the sketch plan (S-04-009), the minimum width of common open space lots that contain alleys shall be 24 feet and the minimum width of alley drive lanes shall be 16 feet.
4. **Required Project Bulk Regulations** - Please be advised that this project must comply with the required R-A-15 zoning district setback requirements, the Supplementary Bulk Regulations and the Traditional Residential Neighborhoods regulations that are all outlined in the Zoning Regulations, as applicable.
5. **Parking** - The proposed parking should be of adequate size for the particular use requested. The design of aisle widths, stall lengths and widths, entrance widths, turning radii, paving, etc., shall conform to standards set forth in the Howard County Design Manual. The standard parking ratio for the proposed use should be: 2.0 spaces per unit, plus 0.3 spaces per unit for guest and overflow spaces. The number of parking spaces required will be reviewed upon the submission of the site development plan; however, this zoning petition incorrectly states there are 12 units in the "parking tabulations". The correct number of units is 13.
6. **Sidewalk Requirement** - All public streets within this development shall have sidewalks on both sides of the roadway. Single family attached lots may not be encumbered with sidewalks and/or sidewalk easements, per the sketch plan (S-04-009).
7. **Landscape Plan Requirements** - The future development of this site must address the landscaping requirements in accordance with Section 16.124 of the Howard County Code, the Landscape Manual and the Zoning Board Decision and Order, if applicable.
8. **Forest Conservation** - Has been addressed under previously approved subdivision plats.
9. **Storm Water Management Facility Requirements** - Storm water management (SWM) and facilities must be designed and comply with the SWM requirements administered by the Development Engineering Division, if applicable.
10. **Housing Unit Allocations** - This project will be subject to testing for housing unit allocations and the APFO open/closed schools test at the final plan.